

From: "Moon, Tobias" <tmooon@namb.org> on 01/30/2004 04:40:47 PM
Subject: Truth in Lending

January 30, 2004

Ms. Jennifer J. Johnson

Secretary

Board of Governors of the Federal Reserve System

20th Street and Constitution Avenue, NW

Washington, DC 20551

Re: Docket Number R-1167

Proposed Amendments to Regulation Z

Dear Ms. Johnson:

The National Association of Mortgage Brokers (NAMB) submits this letter on behalf of its members to comment on amendments to Regulation Z, which implements the Truth in Lending Act (TILA), proposed by the Board of Governors of the Federal Reserve System (Board).

Mortgage brokers act as intermediaries between consumers and lenders during the process of financing the purchase of a home. A typical broker maintains professional relationships with numerous investors including various banks to provide consumers with numerous financing options. These relationships allow the 44,000 mortgage brokerage companies employing over 360,000 employees in the United States to offer consumers the most competitive mortgage products available. Competitive products allow mortgage brokers to provide consumers with loans that match the financial needs and goals of each borrower.

Providing American homebuyers with expertise throughout the home financing process and delivering the most cost effective mortgages available permits mortgage brokers to work with a wide range of borrowers. Mortgage brokers assist buyers with perfect credit histories in addition to those with less than perfect credit histories. The mortgage brokerage industry also helps borrowers with low-to-moderate incomes in finding access to the credit they need to secure the benefits of homeownership. By working with a large array of homebuyers, mortgage brokers originate two of every three residential loans in the United States. As the single largest group of mortgage loan originators, mortgage brokers undoubtedly played a significant role in increasing the rate of homeownership in the United States to an all-time high of 68%.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry. As the voice of the mortgage brokers, NAMB speaks on behalf of more than 19,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise. By adhering to a strict code of ethics and best lending practices, NAMB members guide consumers effortlessly through the mortgage loan origination process. NAMB's governmental affairs representation ensures the advocacy agenda of the mortgage brokerage industry is heard on Capitol Hill.

NAMB comments on the proposals submitted by the Board in the paragraphs below. First, NAMB discusses the proposed revision of the definition of "clear and conspicuous." Second, NAMB focuses on the interpretative rule of construction stating the word "amount" refers to a numerical amount throughout Regulation Z. Third, NAMB outlines changes to the right of rescission. Finally, NAMB concludes this letter by stating NAMB believes uniform national standards provide the best consumer protections. As a result, NAMB supports the changes proposed by the Board.

The Board proposes to amend Regulation Z to define "clear and conspicuous" to mean disclosure "reasonably understandable and designed to call attention to the nature and significance of the information" in the disclosure. The proposed amendment would define "clear and conspicuous" in all applicable statutes and regulations in the same manner providing a uniform definition of the term. Other laws and regulations currently contain similar but not identical standards for defining this term. To comply with this standard, the staff commentary requires disclosures in a "reasonably understandable form." The proposal would amend the staff commentary to add examples of satisfying the "clear and conspicuous" standard by providing examples of "reasonably understandable" disclosures and disclosures "designed to call attention to the nature and significance of the information" included in the disclosure. NAMB believes consumer protections are best preserved through uniform national standards. As a result, NAMB supports defining "clear and conspicuous" consistently in Regulations Z, B, E, M, and DD and providing examples to satisfy this standard. NAMB believes this revision facilitates compliance while preserving important consumer protections.

The Board further proposes to add an interpretative rule of construction to Regulation Z stating "where the word 'amount' is used in this regulation to describe disclosure requirements, it refers to a numerical amount." Adding this interpretative tool requires stating a dollar amount when disclosing the amount financed and finance charges, the amount disbursed to the consumer and to third parties, and the total amount of payments, which is defined as the amount the consumers paid after making all scheduled payments. Given the recent court case that endorsed narrative descriptions of amounts rather than numerical amounts, NAMB agrees with the addition of this proposed interpretative rule of construction. Broad interpretations of the term "amount" may suggest that narrative descriptions could replace numerical amounts. NAMB respectfully disagrees with this legal interpretation, as it contradicts the purpose of TILA to provide consumers with clear disclosures. NAMB believes the proposed interpretative rule of construction provides clear and consistent consumer protections by offering guidance whenever the term "amount" appears in Regulation Z.

The Board also proposes to make the right of rescission effective if delivery to a recipient would constitute delivery to the creditor or assignee under state law. This applies to situations where the creditor fails to provide the required form or designate an address for sending the notice. In these instances, delivery to third-party loan servicers acting as the creditor's agent would constitute delivery to the creditor or assignee if the applicable state law addressed this situation. After a closing, consumers need time to review their loan agreements and examine whether they want to create a security interest in their homes. NAMB applauds the revisions suggested by the Board because they afford consumers the right to rescind the transaction without placing additional

burdens on them such as tracking down the name and address of creditors and their agents.

NAMB greatly appreciates the opportunity to comment on the proposed amendments to Regulation Z. NAMB supports the proposals suggested by the Board because NAMB believes uniform national standards ensure consumers receive the best legal protections. NAMB supports these revisions since they provide consumers with useful information in an easy to understand format while simultaneously placing clear disclosure requirements on financial institutions. If you have any questions, please contact Roy DeLoachor Tobias Moonat 703-610-9009.

Sincerely,

A.W. Pickel III, CMC

President